BEST COPY
AVAILABLE

# MONTANA LEGISLATIVE HISTORY

July Special Session

Chapter 14 1992

Bill H 54 S _____ Original bill & history ___C

| H. Committee on Taxation | | S. Committee on Taxation | |
|---|---|---|---|
| Hearing Date(s) July 15 | ✓ C | Hearing Date(s) July 12 | ✓ C |
| July 16 | ✓ C | _____ | ___C |
| _____ | ___C | _____ | ___C |
| _____ | ___C | _____ | ___C |
| Date Out July 16 | ✓ C | July 12 | ✓ C |

---

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

| | | | |
|---|---|---|---|
| 7/20 | TRANSMITTED TO GOVERNOR | | |
| 8/06 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 13 | EFFECTIVE DATE: 08/06/92 | |

HB 53 INTRODUCED BY S.J. HANSEN

DISCONTINUE TRAFFIC EDUCATION FUNDING TO DISTRICTS FOR 1992-93 SCHOOL YEAR

| | | | |
|---|---|---|---|
| 7/11 | INTRODUCED | | |
| 7/11 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |
| 7/11 | FIRST READING | | |
| 7/11 | FISCAL NOTE REQUESTED | | |
| 7/13 | FISCAL NOTE RECEIVED | | |
| | DIED IN COMMITTEE | | |

HB 54 INTRODUCED BY REAM, ET AL.

REVISE INCOME TAX CALCULATION FOR NONRESIDENTS

| | | | |
|---|---|---|---|
| 7/13 | INTRODUCED | | |
| 7/13 | REFERRED TO TAXATION | | |
| 7/13 | FISCAL NOTE REQUESTED | | |
| 7/13 | FIRST READING | | |
| 7/15 | HEARING | | |
| 7/16 | COMMITTEE REPORT—BILL PASSED | | |
| 7/16 | FISCAL NOTE RECEIVED | | |
| 7/16 | FISCAL NOTE PRINTED | | |
| 7/16 | 2ND READING PASSED AS AMENDED | 91 | 5 |
| 7/16 | 3RD READING PASSED | 88 | 8 |
| | TRANSMITTED TO SENATE | | |
| 7/17 | REFERRED TO TAXATION | | |
| 7/17 | FIRST READING | | |
| 7/17 | HEARING | | |
| 7/17 | COMMITTEE REPORT—BILL CONCURRED | | |
| 7/18 | 2ND READING CONCURRED | 39 | 10 |
| 7/18 | 3RD READING CONCURRED | 41 | 8 |
| | RETURNED TO HOUSE | | |
| 7/20 | SIGNED BY SPEAKER | | |
| 7/20 | SIGNED BY PRESIDENT | | |
| 7/20 | TRANSMITTED TO GOVERNOR | | |
| 8/06 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 14 | EFFECTIVE DATE: 08/06/92 | |

HB 55 INTRODUCED BY BACHINI, ET AL.

APPROPRIATE SOME COAL TRUST FUNDS TO GENERAL FUND FOR FISCAL YEAR 1993

| | | | |
|---|---|---|---|
| 7/13 | INTRODUCED | | |
| 7/13 | REFERRED TO TAXATION | | |
| 7/13 | FISCAL NOTE REQUESTED | | |
| 7/13 | FIRST READING | | |
| 7/14 | HEARING | | |
| 7/14 | FISCAL NOTE RECEIVED | | |
| | DIED IN COMMITTEE | | |

HB 56 INTRODUCED BY COCCHIARELLA, ET AL.

REORGANIZE DEPARTMENT OF ADMINISTRATION

| | | | |
|---|---|---|---|
| 7/13 | INTRODUCED | | |
| 7/13 | REFERRED TO STATE ADMINISTRATION | | |
| 7/13 | FIRST READING | | |
| 7/13 | FISCAL NOTE REQUESTED | | |
| 7/14 | HEARING | | |

## HEARING ON HOUSE BILL 54

Presentation and Opening Statement by Sponsor:

**REP. REAM, District 54, Missoula,** said the bill revises taxation of nonresident and temporary resident taxpayers. Total income, both Montana and out of state, would be used for calculating the tax owed. The tax would then be prorated on the ratio of income earned in Montana to total income. Under current law, only Montana earned income is used in calculating tax owed by nonresident taxpayers. **REP. REAM** referred to figures contained in Exhibit #1.

Proponents' Testimony:

**Wayne Hirst, Tax Accountant, Libby,** said he does a number of returns for people who have moved away, but retain residences in Montana. He said most other states have this legislation, it will make some additional money for the state, it is fair, and should be enacted.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

**REP. FOSTER** asked how many other states have this legislation.

**Denis Adams, Director, Department of Revenue (DOR),** said he knows of about 15 other states. He noted there is no proration for Montana income if you are a Montana resident and live out of state part of the year. He recommended amending the bill to clarify Montana source income and avoid double taxing.

Closing by Sponsor:

**REP. REAM** said the only way to get the revenue is to try the system. It is a fairness and equity issue.

## HEARING ON HOUSE BILL 52

Presentation and Opening Statement by Sponsor:

**REP. COHEN, District 3, Whitefish,** said the bill is introduced at the request of the Department of Revenue. The bill would place the new property tax values determined during the recent reappraisal cycle on the tax rolls for 1993 tax year instead of the 1994 tax year.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 7/15/92

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. BEN COHEN, VICE-CHAIRMAN | X | | |
| REP. ED DOLEZAL | X | | |
| REP. JIM ELLIOTT | X | | |
| REP. ORVAL ELLISON | X | | |
| REP. RUSSELL FAGG | X | | |
| REP. MIKE FOSTER | X | | |
| REP. BOB GILBERT | X | | |
| REP. MARIAN HANSON | X | | |
| REP. DAVID HOFFMAN | X | | |
| REP. JIM MADISON | X | | |
| REP. ED MCCAFFREE | X | | |
| REP. BEA MCCARTHY | X | | |
| REP. TOM NELSON | X | | |
| REP. MARK O'KEEFE | X | | |
| REP. BOB RANEY | X | | |
| REP. BOB REAM, VICE-CHAIRMAN | X | | |
| REP. TED SCHYE | X | | |
| REP. BARRY "SPOOK" STANG | X | | |
| REP. FRED THOMAS | X | | |
| REP. DAVE WANZENRIED | X | | |
| REP. DAN HARRINGTON, CHAIRMAN | X | | |

HB 54

NONRESIDENT TAXPAYER

Earning $20,000 in Montana

and 30,000 elsewhere

$50,000 TOTAL

Current Law Tax Only

based on $20,000 ---- $1,090

Based on 40% of Tax

for $50,000 income ----$1,572.40

**********

Earning $20,000 in Montana

and 40,000 elsewhere

$60,000

Current Law ----------$1,090

Based on 1/3 of tax for
$60,000 income -------$2,014

8. Page 3, line 19.
Following: "county"
Insert: "reduced by equal percentages until no reimbursement is made in the 10th year"

9. Page 3, line 20.
Strike: "1991"
Insert: "1992"

10. Page 3, line 21.
Following: "May 31"
Insert: "for the next 9 years"

11. Page 3, line 22.
Following: "county"
Insert: "reduced by equal percentages until no reimbursement is made in the 10th year"

Discussion: **REP. GILBERT** said he doesn't really understand the amendments or the bill as well as he would like. He felt uncomfortable about adopting the bill until it is better understood by the Committee.

Motion/Vote: **REP. HOFFMAN moved to TABLE HB 57.**

Vote: **The motion to TABLE HB 57 CARRIED on a roll call vote (Exhibit #2).**

## EXECUTIVE ACTION ON HOUSE BILL 27

Motion: **REP. ELLIOTT** presented proposed amendments which strip the bill and insert **REP. SCHYE's** HB 664 of the 1989 regular session. The amendments are made with the concurrence of **REP. DAILY.** The bill contains an alternative minimum tax on Montana individual income, with a minimum tax rate of 8.25%. There are still 20 - 25 people in the state earning over $100,000 a year and not paying a cent in state income tax. The bill is a carbon copy of the federal codes minimum tax provision. **REP. ELLIOTT moved to adopt the amendments as per the attached standing committee report.**

Discussion: **REP. GILBERT** said he does not like the bill because he philosophically opposes an alternative minimum income tax. The main reason he objects to the bill is that it is essentially a new bill which did not receive a public hearing.

**REP. HARRINGTON** said HB 27 in its original form was an alternative minimum tax bill and these amendments do the same thing in a slightly different form.

**REP. ELLIOTT** said this is still an alternative minimum tax bill. The basic intent of these amendments is to make **REP. DAILY'S** bill somewhat more progressive as it originally imposed more of a hardship on lower and middle income class Montanans.

Vote: **The motion to amend HB 27 CARRIED on a roll call vote (Exhibit #3).**

Motion/Vote: **REP. ELLIOTT moved HB 27 DO PASS AS AMENDED. The motion CARRIED on a roll call vote (Exhibit #4).**

## EXECUTIVE ACTION ON HOUSE BILL 54

Motion: **REP. REAM moved HB 54 DO PASS.**

Discussion: **REP. REAM** said he had just signed the fiscal note and it indicated a $3.2 million increase in individual income tax.

**Jeff Miller, Income Tax Division, DOR,** said he wanted to clarify one provision of the bill. With the additions made on page 6, a lot of reliance is placed on calculating the percentage of the tax calculation being driven by income earned and attributable to activities in Montana as compared to everywhere. He then referred to page 12, line 9, saying the stricken language that is completely consistent with the new approach and theory of calculating nonresident income and should be reinserted in the bill. He said DOR would continue to say that interest income attributable to installment sales of Montana property is Montana sourced income. He asked for confirmation by the Committee that that is their intention as well.

**REP. REAM** said it is his intention. He said if there needs to be amendments to reinforce that intention he would be open to them.

**Mr. Miller** said he would suggest amending page 6 to say that Montana earned income would include interest on installment sales. That needs to be very explicit and is an issue that goes back many years and was specifically put in statute in 1985 to address the interest income issue.

**REP. REAM** said he would amend the bill on the floor of the House in order to expedite moving the bill out of Committee at this time.

Vote: **The motion that HB 54 DO PASS CARRIED unanimously.**

**CHAIRMAN HARRINGTON** announced the Committee would hear HB 29 and HB 63 at the same time.

## HEARING ON HOUSE BILLS 29 AND 63

Presentation and Opening Statement by Sponsor:

**SEN. BROWN, District 2, Whitefish,** said he is presenting HB 29 at the request of **REP. MERCER,** sponsor of the bill, whose wife and sister-in-law were involved in an auto accident this morning. The bill is an amendment to Article 8 of the Montana Constitution to limit to 4% the rate of general statewide sales tax or use tax. It would also limit to 1% the rate of local government sales or use taxes. He said it is important to pass this bill during this special session because the constitutional amendment must be voted on in a November general election. Even if there is a difference of opinion about whether a sales tax should be passed or placed on the November election ballot, if there is to be a constitutional limit, the limit would have to appear on the ballot. The most common concern about a sales tax is the fear that it will tend to continually creep up. This is the case in

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 7/16/92

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| REP. BEN COHEN, VICE-CHAIRMAN | X | | |
| REP. ED DOLEZAL | X | | |
| REP. JIM ELLIOTT | X | | |
| REP. ORVAL ELLISON | X | | |
| REP. RUSSELL FAGG | X | | |
| REP. MIKE FOSTER | X | | |
| REP. BOB GILBERT | X | | |
| REP. MARIAN HANSON | X | | |
| REP. DAVID HOFFMAN | X | | |
| REP. JIM MADISON | X | | |
| REP. ED MCCAFFREE | X | | |
| REP. BEA MCCARTHY | X | | |
| REP. TOM NELSON | X | | |
| REP. MARK O'KEEFE | X | | |
| REP. BOB RANEY | X | | |
| REP. BOB REAM, VICE-CHAIRMAN | X | | |
| REP. TED SCHYE | X | | |
| REP. BARRY "SPOOK" STANG | X | | |
| REP. FRED THOMAS | X | | |
| REP. DAVE WANZENRIED | X | | |
| REP. DAN HARRINGTON, CHAIRMAN | X | | |

HOUSE STANDING COMMITTEE REPORT

July 15, 1992
Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HB 54 (first reading copy -- white) do pass .

Signed: _____
Dan Harrington, Chairman

101355SC.HRT

effort to sabotage liquor stores.

Mr. Blewett referred to 1985 legislation sponsored by Representative Harrington, stating that if stores drop below a ten percent profit standard they should go to privatization, and said that is what DOR is doing. He explained that DOR is working in a situation in Great Falls right now under this legislative framework. Mr. Blewett further explained that DOR was left with this situation in two locations, as the landlord did not bid, and the newest location is clearly temporary.

Senator Doherty asked about the complaint that stores are not getting their inventories, and if Mr. Blewett could assure the Committee that DOR is not intentionally trying to reduce stock or inventories. Mr. Blewett replied he could assure the Committee that DOR is not intentionally trying to reduce stock or inventories. He stated that three years ago a breakdown in the computer system cause some delay, but there had been no problems before that time, nor have there been problems since, as DOR ships every two weeks.

Senator Towe asked if DOR had any problems with the mechanisms and language in the bill. Mr. Blewett replied he did, because the language does resolve the issues it attempts to address. He explained that the use of the word "bid" has narrowed it to agencies in communities of 3,000 or more population, and does not address smaller communities. He further explained that section 4, new (2) refers back to section 3 and sounds like any rulemaking DOR might entertain is prohibited and stopped. Mr. Blewett told the Committee that new subsection 5(b) is unclear in view of new section 2.

Senator Towe stated he did not see any concerns with page 5, but moved to insert "for proposal" following "bids" on page 4, line 8. The motion carried unanimously.

**The Committee left executive session without completing action on HB 48 and proceeded with hearing of new bills at 1:20 p.m.**

## HEARING ON HOUSE BILL 54

### Presentation and Opening Statement by Sponsor:

Representative Bob Ream, District 54, told the Committee HB 54 brings in revenue this year and the following year by revising the method of calculating individual income taxes due from non-resident and temporary resident taxpayers. He explained that language on page 6, lines 7-9 was reinserted in the House after is was accidently deleted earlier (Exhibit #13).

### Proponents' Testimony:

Wayne _____, Lincoln County, said he believes the bill is fair.

Opponents' Testimony:

There were none.

Questions From Committee Members:

There were no questions from the Committee

Closing by Sponsor:

Representative Ream made no closing comments.

HEARING ON HOUSE BILL 24

Presentation and Opening Statement by Sponsor:

Representative Ben Cohen, District 3, said HB 24 was requested by DOR. He explained that some are claiming the railroad freight line license tax is illegal under the 4R Act, and that railroads are excluded from corporate license tax. He further explained that the state could lose in a court case.

Proponents' Testimony:

Dave Butcher, Office of Legal Affairs, DOR, said the bill repeals the current freight company tax, and institutes a tax on railroad car companies proposed as class 12 property. He explained that it may include some corporate license tax (Exhibit #14).

Opponents' Testimony:

Mike Greely, GE Capital Railcar Services, told the Committee the bill is so complex, it has not even been gone over with DOR yet (Exhibit #15). He said he is not objecting to the tax the company is paying now, but the new tax amounts to $31,000 per year, and he objects to the complicated formula and not being able to anticipate tax a tax increase of three to nine times greater.

Mr. Greely advised the Committee that problems in HB 24 relate to HB 44. He commented that one could say the bill is unconstitutional, and there is no retroactive provision on the seven percent surtax in HB 44, but HB 24 is retroactive to 90 and 91, as well as 92. Mr. Greely further advised the Committee that HB 24 repeals gross earnings, and suggested they amend out section 17. He stated that if HB 24 passes railcar companies will probably file litigation.

Robert Edd Lee, TTX Company, told the Committee his company is trying to avoid further litigation, and see legislation passed that they can agree to. He said this is the wrong solution to the problem, made on a study not fully investigated. Mr. Lee suggested the Committee avoid the retroactive nature of the bill,

Senator Eck asked if property valuation in the Bozeman area would go up. Ken Morrison replied DOR would use values in 93 regardless of what happens with this bill, based on individual property reappraisals. He said the bill shrinks a seven-year job down to three years.

Closing by Sponsor:

Representative Cohen made no closing comments.

## EXECUTIVE ACTION ON HOUSE BILL 54

Motion:

Senator Van Valkenburg moved that HB 54 Be Concurred In.

Discussion:

There was none.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

Senator Van Valkenburg's motion carried unanimously.

**The Senate Taxation Committee recessed at 2:03 p.m. and reconvened at 4:53 p.m. Senators Brown, Thayer, and Van Valkenburg were not present when roll was noted.**

## EXECUTIVE ACTION ON SENATE BILL 11

Motion:

Senator Doherty moved to table SB 11.

Discussion:

There was none.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

Senator Doherty's motion carried unanimously.

SENATE STANDING COMMITTEE REPORT


July 17, 1992

MR. PRESIDENT

We, your committee on Taxation having had under consideration House Bill No. 54 (third reading copy -- blue), respectfully report that House Bill No. 54 be concurred in.

Signed: _____

Mike Halligan, Chairman

7-17-92

Amd. Concd.

7-17-92

Sec. of Senate

ROLL CALL

Sen. TAXATION COMMITTEE

DATE 17 July 92

___ LEGISLATIVE SESSION ___

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| SENATOR BROWN | ✓ | | |
| SENATOR DOHERTY | ✓ | | |
| SENATOR GAGE | ✓ | | |
| SENATOR HARP | ✓ | | |
| SENATOR KOEHNKE | ✓ | | |
| SENATOR THAYER | ✓ | | |
| SENATOR TOWE | ✓ | | |
| SENATOR VAN VALKENBURG | ✓ | | |
| SENATOR YELLOWTAIL | ✓ | | |
| SENATOR ECK, VICE CHAIR | ✓ | | |
| SENATOR HALLIGAN, CHAIR | ✓ | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

SENATE TAXATION
EXHIBIT NO. 13
DATE 29 July 92
BILL NO. HB 54

HB 54

NONRESIDENT TAXPAYER

Earning $20,000 in Montana

and 30,000 elsewhere

$50,000 TOTAL

Current Law Tax Only

based on $20,000 ---- $1,090

Based on 40% of Tax

for $50,000 income ----$1,572.40

**********

Earning $20,000 in Montana

and 40,000 elsewhere

$60,000

Current Law ----------$1,090

Based on 1/3 of tax for
$60,000 income -------$2,014

The costs associated with the processing of payments and issuing receipts are minimal, less than $500 per year. No other costs are associated with collecting this tax.

Proposal

Montana's taxation method would be similar to the method used by most other states. The department's property assessment division would value the entire fleet of the company, nationwide, and then allocate a portion of that value to Montana. The allocation would be based on the ratio of miles traveled in Montana to miles traveled everywhere.

To determine the taxes owed, the Montana value would be multiplied times the tax rate for railroad and airline property - class twelve property. The rate for class twelve property is a weighted average of the tax rate for commercial and industrial property - 7.53 percent for 1992. The taxable value times the average mill in the state used for motor vehicle fleets (15-23-103) is the actual tax.

The money collected would be deposited to the general fund the same as the freight line license tax is now. In order to prevent any possible loss in general fund revenue, the bill is made retroactive to the 1991 tax year. The companies receive a credit for any taxes paid under the freight line tax.

This program will have an initial cost of approximately $70,000 in personnel and operating expenses. The ongoing costs will be approximately $60,000. The department will be required to implement the necessary administrative rules and complete assessments for the 1991, 1992 and 1993 tax years in a very short time frame. The freight line license tax was never fully funded to ensure compliance. It is important for the property tax application to be enforced from its inception.

Future Problems

The railroads and the car line companies have been successful in requiring states to reduce their property taxes based on exemptions for personal property. In a recent Oregon case ACF Industries, a company succeeded in being entirely exempt from all property taxes because of exemptions granted by the state. Oregon is asking the U. S. Supreme Court to review the Ninth Circuit decision.